

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

DAVID MUNIZ,

Plaintiff,

v.

No. CV 21-301 CG

KILOLO KIJAKAZI,<sup>1</sup>  
Commissioner of the  
Social Security Administration,

Defendant.

**ORDER GRANTING UNOPPOSED MOTION TO AWARD ATTORNEY FEES  
UNDER THE EQUAL ACCESS TO JUSTICE ACT**

**THIS MATTER** is before the Court on the Plaintiff Daiv Muniz's *Unopposed Motion for Attorney Fees Pursuant to the Equal Access to Justice Act, with Memorandum in Support* (the "Motion"), (Doc. 24), filed April 11, 2022. In the Motion, Plaintiff indicates the parties have agreed to award Mr. Muniz attorney fees in the amount of \$6,633.90. *Id.* at 1. The Court, having reviewed the Motion under EAJA, 28 U.S.C. § 2412, finds the Motion is well-taken and shall be granted.

**IT IS THEREFORE ORDERED** that Mr. Muniz be awarded \$6,633.90 in attorney fees pursuant to EAJA, 28 U.S.C. § 2412, made payable to Mr. Muniz but mailed to his attorney. See *Astrue v. Ratliff*, 560 U.S. 586 (2010) (EAJA fees are paid to the prevailing party, not the attorney).

**IT IS FURTHER ORDERED** that if Mr. Muniz's attorney receives attorney fees under both the EAJA and 42 U.S.C. § 406(b) of the Social Security Act, Mr. Muniz's

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<sup>1</sup> Kilolo Kijakazi was appointed Acting Commissioner of the Social Security Administration on July 9, 2021.

attorney shall refund the smaller award to Mr. Muniz pursuant to *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

**IT IS SO ORDERED.**



THE HONORABLE CARMEN E. GARZA  
CHIEF UNITED STATES MAGISTRATE JUDGE